

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 16,764
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of PATH finding that she failed to report her income and establishing an overpayment of Food Stamps for the period of non-report.

FINDINGS OF FACT

1. In March of 1999, PATH became aware from a computer tape match that the petitioner had income from a job she began in October of 1998 of which it was unaware. The matter was referred to the fraud claims unit which, after investigation (including discussions with the petitioner), resolved the matter without a finding of fraud.

2. On October 19, 2000, the petitioner received a notice from PATH that her household had received \$1,414 more in Food Stamps than it was entitled to receive for the period from December 1, 1998 to April 30, 1999 based on the unreported earnings. The letter implied that the petitioner was the cause, however unintentional, of the communication

failure. The petitioner, who is not currently receiving Food Stamps, appealed this decision.

3. Prior to the hearing, the petitioner was provided with complete documentation of how the overpayment was calculated. She did not contest the amount of the overpayment established by the Department. She did, however, contest the finding that she had failed to provide the information about her employment. The petitioner contends that she did provide the information to the Department but that it was lost somewhere in the system because it was reported at a time when her eligibility worker was being changed.

4. At the hearing, the Department conceded that the failure to record the employment information could well have been its fault and that it was not charging the petitioner with any fault in regard to the mistaken Food Stamp payments. The Department contends, however, that it is required to establish the overpayment against the petitioner regardless of whose fault it was.

ORDER

The decision of the Department establishing an overpayment against the petitioner of \$1,414 in Food Stamps is affirmed.

REASONS

The Food Stamp regulations require that the "state agency shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive" whether the claim is due to inadvertent household error, administrative error or an intentional program violation. F.S.M. 273.18(a). If the Department should try to collect on the claim at some future point when the petitioner might be receiving Food Stamps, the Department is required to recoup ten percent of the monthly Food Stamp allotment if the overpayment was either inadvertent error or administrative error. (Intentional violations are recouped at a rate of twenty percent.) F.S.M. 273.18(g)(4).

In terms of establishing the claim and effecting future recovery, the regulations do not treat the overpayment any differently based on who made the error. The Department is required to establish the claim and recoup ten percent of any Food Stamp payment whether the Department made the mistake or the recipient made the mistake. This distinction is not important in the administration of the program. The Department has established the overpayment in accordance with its rules.

However, the distinction of who is at fault is important to the petitioner who insists that she did report her earnings. The Department's concession that it may have been at fault has effectively granted the petitioner the relief she sought which was an acknowledgement from the Department that there was no evidence that she had failed in her obligations.

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